IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Cr. Revision No. 13 of 2006

Date of Decision: 23.03.2006

Parkash Chand …Petitioner

Versus.

Smt. Savitri Mishra & anr. .. Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for Reporting?

For the Petitioner(s): **Mr.Vijay Bhatia, Advocate with Prakash Chand, petitioner/accused in person.**

For the Respondent(s): **Smt. Savitri Mishra, complainant-respondent in person.**

Deepak Gupta, J.

This revision by the petitioner-accused Parkash Chand is directed against the judgment of the Presiding Officer, Fast Tract Court, Hamirpur, in Criminal Appeal No. 2 of 2003, decided on 7.12.2005, whereby he has dismissed the appeal filed by the petitioner-accused and upheld the judgment dated 7.5.2003/9.5.2003 passed by the learned Additional Chief Judicial Magistrate, Hamirpur, in Private Complaint No.11 of 1999.

The complainant Smt. Savitri Mishra had filed a complaint under Section 138 of the Negotiable Instrument Act claiming

that a cheque for Rs.19,830/- issued by the accused Prakash Chand had bounced. Thereafter, she had issued a notice to the accused but despite such notice, he did not pay the amount and hence the complaint.

This matter was contested by the accused. The trial Court held the accused guilty of having committed an offence under Section 138 of the Negotiable Instrument Act and directed him to undergo simple imprisonment for a period of two months and to pay compensation of Rs.35,000/- to the complainant. The accused filed an appeal. The learned lower appellate court has rejected the appeal filed by the accused. After the judgment of the Court, the accused surrendered and remained in police custody from 18.1.2006.

When this matter came up for hearing before this Court on 1.2.2006, it was ordered that the petitioner shall deposit a sum of Rs.35,000/- awarded as compensation and on deposit of such amount by the petitioner, he shall be released on bail on his furnishing personal bond of Rs.10,000/- with one surety of the like amount to the satisfaction of the trial Court. The petitioner deposited the amount and furnished bail bonds and was released on bail.

Today, the petitioner-accused is present in person along with Mr. Vinod Bhatia, Advocate who identified the accused. Smt. Savitri Mishra is also present in person along with her

husband Sh O.P. Mishra. The parties stated that they have arrived at a compromise and they want to compound the matter. The petitioner-accused has paid a sum of Rs.5,000/- to Smt. Savitri Mishra in my presence today, the receipt whereof she has acknowledged.

The parties have also filed Cr.MP No.136 of 2006 under Section 320(8) Cr.P.C. for compounding the offence under Section 138 of the Negotiable Instrument Act. The parties have settled the matter. The petitioner- accused has already undergone more than 13 days imprisonment. Therefore the interest of justice demands that the matter may be permitted to be compounded and it is ordered accordingly. The application is taken on record and allowed.

In terms of the settlement arrived at between the parties, in addition to Rs.5000/- paid today in Court by the petitioner-accused to the complainant, the complainant shall also be entitled to the amount of Rs.35,000/- which has been deposited by the accused before the trial Court in terms of the order of this Court dated 1.2.2006.

In view of this settlement arrived at between the parties and in view of the fact that they have compounded the matter, the judgments passed by the learned lower appellate Court and the learned trial Court are set aside and the conviction of the petitioner-accused is set aside subject to the condition that the

amount of Rs.35,000/- deposited by him as compensation in the trial Court shall be paid to the complainant Smt. Savitri Mishra wife of Shri O.P.Mishra, in terms of the settlement arrived at between the parties. This is in addition to the amount paid in Court today. The trial Court is directed to release the sum of Rs.35,000/- deposited with it by the petitioner to the respondent- Smt.Savitri Mishra.

Criminal Revision No.13 of 2006 and Cr.MP No.136 of 2006 are accordingly allowed in the aforesaid terms. Dasti copy.

March 23, 2006. (Deepak Gupta), J.

s.